

## **The Kauf- and Handelsverträge of Freistaat Sachsen**

Kauf- and Handelsverträge are the records of land purchases. They are very explicit in matters of location and participating parties. They also divulge details about economic circumstances and matters of reserved property. To explain these records better and how to use them, here is a case study from the lower court of Sebnitz.

On a birth certificate from 1841 of Hainersdorf/Sachsen were listed three generations: the newborn, his father and possibly a grandfather. One could not be certain, but one witness most likely was the father of the parent. The father of the child was described as a future estate owner. In 1912 (on his death record) he was the owner of a farm. The church records for Hainersdorf are deposited with the Evangelical church in Sebnitz and were not available for perusal. In order to find out the identity of the witness, another source had to be brought into play: court records. The birth certificate mentioned the father to be a future estate owner. That means he was about to purchase land. Did he buy his father's farm? The perfect court records to investigate this query are the Kauf- und Handelsverträge which deal with buying and selling, inheritances and the reserved property for parents.

Before delving into the court records some background information is necessary in order to understand the many divisions and border changes through rights of succession, enemy actions or expropriation as well as other information in order to get the best results in fully understanding court records. A timeline



Freistaat Sachsen, Germany

will provide a general historical background of Saxony.

### Time line

- 805 Charlemagne overpowers Sorb tribes. The Lindolfingers, wealthy landowners situated between the Harz Mountains and the River Weser, receive dukedom status. They maintain their autonomy, but must supply military aid and pay taxes.
- 919 Duke Heinrich I becomes German king. He begins the systematic subjugation of the Slavs living in the river Elbe region.
- 929 King Heinrich I establishes the castle in Meissen as a military stronghold. Becomes the center of the Margravate Meissen.
- 1089 Heinrich I of the House of Wettin becomes invested with the March of Meissen. Thus begins the reign of the Wettiner Dynasty in the Saxony-Thuringia area. The Wettiner remain in uninterrupted succession until 1918. Their ancestral castle stands on the shores of the river Saale.
- 1156 Konrad the Great distributes his territory among five sons. With this act the history of the Saxon land divisions begins.

- 1346 Bautzen, Goerlitz, Kamenz, Loebau and Zittau form an alliance in the Oberlausitz which lasted until the defeat of Napoleon I in 1815.
- 1409 The University of Leipzig is founded.
- 1423 Margrave Friedrich acquires the Askanian Duchy of Saxony-Wittenberg and the title of Electorate. From now on all territories (including Meissen, Lausitz, Thuringia) are known as the Electorate of Saxony.
- 1459 The ridge of the Erzgebirge (mountain range) becomes the border between Saxony and Bohemia (today part of the Czech Republic).
- 1466 Saxony acquires Plauen, the nucleus of the Vogtland (cultural area)
- 1485 The Electorate of Saxony (House of Wettin) is divided into two branches. The Ernestine branch receives Wittenberg, small parts of the March of Meissen, Osterland and Pleissenland (cultural areas) with Eilenburg, Grimma, Borna, Leisnig, Altenburg, Zwickau, Plauen, Schwarzenburg; most of Thuringia with Weimar, Gotha, Eisenach, parts of Coburg, Frankish Königsberg, the Protectorate of Naumburg, Gleichen, Kirchberg, Reuss - as well as parts of Schwarzburg.
- The Albertiner, Duke Albrecht, receives the March of Meissen with Dresden and Freiberg, Amt Leipzig, Delitzsch-Landsberg, Zörbig, Margravate Saxony with Sangershausen, areas in the north of Thuringia and parts of the Diocese of Merseburg. The lords of Stollberg-Hohnstein, Mansfeld Arnstein, Beichlingen, Leisnig, Querfurt and Schönberg come under the rule of the House of Albertines.
- 1517 Reformation begins in Wittenberg (then still part of Saxony)
- 1547 Johann Friedrich I (Ernestine) succumbs to Emperor Karl V, who gives Wittenberg to the Albertines. The Ernestines keep the areas of Weimar, Jena, Salfeld, Weida, Gotha, Eisenach and Coburg, later (1554) also the areas of Sachsenburg and Altenburg.
- 1553 Albert becomes electorate. Under his reign Saxony experiences significant economic growth.
- 1554 Further divisions of the land took place from which several small states emerged. In 1572 Sachsen-Coburg-Eisenach and Sachsen-Weimar are formed. These again experience dissolution. Sachsen-Weimar is formed out of Sachsen-Altenburg (1603), Sachsen-Eisenach and Sachsen-Gotha (1640) and Sachsen-Jena (1672). In 1680 Sachsen-Weimar was divided into seven lines.
- 1648 Peace of Westphalia. Saxony loses political importance within the Holy Roman Empire.
- 1694 The reign of Friedrich August I begins. He is ambitious and desires to be king. Through

Mediations by his personal friend Emperor Franz Joseph of Austria, Friedrich August I becomes King of Poland, also known as August II. His son rules as King August III. With August II's death in 1763 the connection to Poland is severed.

- 1806 Friedrich August III becomes King of Saxony through the support of Napoleon Bonaparte.
- 1813 In the Battle of Leipzig the Saxons fight on the French side and lose.
- 1815 Vienna Congress. Saxony has to transfer 57.5 % of its territory and 42.2 % of its citizens to Prussia. The Ostoberlausitz (cultural region) becomes part of the Prussian province Schlesien. The Niederlausitz (cultural area) went to the Prussian province Brandenburg. The remaining territory of the Kingdom of Saxony covers approx. 1500 square miles with roughly two million citizens.
- 1832 Saxony receives its constitution
- 1835 First steam boat on the river Elbe
- 1839 First railroad connection between Leipzig and Dresden
- 1871 King Wilhelm of Prussia becomes German Emperor. Saxony becomes part of the German Reich.
- 1918 Weimar Republic is created. King Friedrich August III abdicates the throne.
- 1919 Saxony becomes known as Freistaat Sachsen with a new democratic constitution.
- 1934 Saxony becomes part of the Third Reich.
- 1949 Saxony becomes part of the Communist GDR (German Democratic Republic).
- 1952 Dissolution of Saxony as a state. The area becomes known as the Leipzig, Dresden and Chemnitz districts.
- 1989 Demonstrations in Leipzig and Dresden lead to the collapse of the GDR.
- 1990 Elections. Saxony again known as Freistaat Sachsen. It is now part of the Federal Republic of Germany with Dresden as its capital, and a population of 4.6 million.



### **The lower court and its jurisdictions**

Political power, along with the conception and administration of the law remained in the hands of the ruling class, i.e., the king and the nobles, the clergy and later the city officials and manor lords. However, within these ruling classes certain concessions had to be made. The king, for instance, was dependent upon the nobility for military and financial aid. Legal transactions were based on an orally transmitted common law. In the 12/13<sup>th</sup> century, the church began to write down the principles of this law, which in turn caused a wave of textualization, partly officially and partly privately conceived. Written records began to be used in the courts and resulted in such legal texts as the “Sachsenspiegel”. Its author, Eike von Repgow (1180-1235), worked to stabilize and standardize the administration of justice and

wanted to contribute to the peace efforts in the litigations between the nobles, as well as between the emperor and the pope.

The “Sachsenspiegel” is divided into two parts, the management of fiefs (Lehnrecht) and the territorial law (Landrecht). The territorial law regulated the affairs of the landowning lords and the land of working peasants. The book touches on many overlapping legal interests, among them the administration of the laws themselves.

In order to reach the population, which could not yet read or write, pictures were later added to the texts. Drawings would illustrate and explain legal matters to the common man. These guidelines and practices lasted for some centuries and were finally replaced in 1863 when the Kingdom of Saxony published the “Sächsische Bürgerliche Gesetzbuch” (civil law).

Settlements, traceable as early as the 12<sup>th</sup> century were assigned to “Verwaltungsbezirke” (administrations). These were known as *districtus*, *castrum* (castle district) and “Pflege”. They were headed by markgräfliche Vögte (margravian reeves), known also as *advocati* and *officiati*. The offices designated to administer the law were divided into “Ämter” (administrative offices, which were a one-man-institution). The authorities in charge were called “Amtsmänner”. They practiced jurisprudence at the lowest level.

In the 15<sup>th</sup> century we see the development of manors endowed with legal authorization. The division into Schriftsassen and Amtssassen begins. Manor lords who had received “hohe Gerichtsbarkeit” (able to pronounce a death sentence) were called Schriftsassen. They received directives straightaway from the royal/ducal administration. All others who did not have full

jurisdiction, i.e., those who came under the auspices of an Amtsmann (local official) were called Amtssassen. Correspondence from the central office would go to the local administration (Amt). The Amtmann had several roles to play: he was the CFO and the legal as well as the police force. He was in charge of the "Amtserbbücher", books in which were recorded all properties, rights and incomes belonging to the sovereign lord. In some administrations a "Schösser" was installed, a man who was responsible for the financial and economical developments of the area. If necessary, he would represent the Amtsmann, sometimes he was the "Amtmann".

The Amt could be given away as a pledge for a large sum of money or be offered as repayment for an old claim. In this way administrators of non-noble roots could become the official of an Amt.

In the 17<sup>th</sup> and 18<sup>th</sup> century many manor lords installed trained jurists who overlooked the legal and local administrative process of the manor. This way Patrimonialgerichte (courts) came into existence. Patrimonialgerichte dealt with lower court issues, such as property cases as well as family and inheritance issues, servants, manor and minor criminal cases, i.e., insults, slander, scraps, rough housing to name a few.

A law, passed on August 11, 1855 transferred the administration of justice of the first instance from the traditional Amt to the newly formed "Gerichtsamt". With this change the medieval constitution of magistrates was dissolved, and in 1856 fourteen "Amtshauptmannschaften" were formed.

In 1873 “Amtshauptmannschaften” separated judiciary and public administration. The new term for “Gerichtsamtsamt” was now “Amtsgericht”. The Amtsgericht became responsible for legal matters of the first instance only.

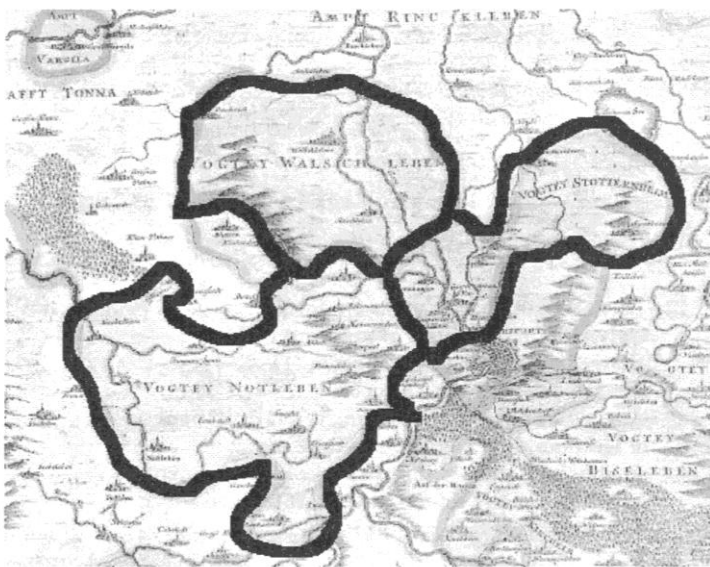
The researcher needs to know whether to deal with the records of an **Amt**, **Gerichtsamtsamt** or **Amtsgericht**. It would be quite a task to determine in which Amt older court records may be found. To facilitate a search for such a record, one should become acquainted with *Historisches Ortsverzeichnis von Sachsen*. (<http://hov.isgv.de/>) This index is very helpful in determining the correct jurisdiction of records that were created in earlier centuries. In the column “Verwaltungszugehörigkeit” administrations are listed where court records may have been originally deposited, but were later merged with another administration (see example Hainersdorf). There are other clues given about Hainersdorf. Through the centuries it had been given varied names, i.e., Amtshainersdorf, indicating that it had an Amt with Amtssassenrecht. Should the genealogist come across other designations regarding his area of research, such as cultural areas, it is important to study maps. For instance, Amtshainersdorf can be brought in connection with Gerichtsamtsamt Sebnitz, Amtshauptmannschaft Pirna or the Landkreis Sächsische Schweiz. Landkreis Sächsische Schweiz is a cultural area as the following map shows:





Map of cultural districts for Freistaat Sachsen

Talking about maps, they usually give a good general idea about places in the past, but lack historical content (see map below to illustrate this point). To make sure sufficient information leads to correct sources, the researcher needs to know appropriate materials and where to find them. To illustrate this point click on <http://www.verwaltungsatlas.sachsen.de/>



Detail from the area around Erfurt

J.B. Homann "Großer Atlas über die Gantze Welt", Nürnberg 1716

If maps are not available, gazetteers are often helpful in gathering clues about an area.

***Meyers Orts- und Verkehrslexikon*** (1905) available online through [www.familysearchWiki](http://www.familysearchWiki)

(Germany, gazetteers) would be an excellent example to study. This gazetteer covers all former German territories and shows important information in one single entry. Hamlets with fewer than 300 inhabitants, their political entities and their administrative affiliations are included, thus making it easy to locate a particular place on a map. Although it is over 100 years old, ***Meyers Orts- und Verkehrslexikon*** is still a vital resource because it helps to accurately determine cultural, political and administrative jurisdictions. An entry in this gazetteer will show the district/county seat, where the military was located and where one would find the records of the lower courts (Amtsgericht) and the Civil Registration Office. One of the

drawbacks of the “Meyers Orts” is the Fraktur print. Few people today are familiar with the old Gothic print. Therefore mistakes in interpreting the source correctly may occur. The other drawback is that numerous abbreviations, the meaning of commas and semicolons must be memorized or constantly referred to in order to read an entry and get the most out of it. The entry for Amtshainersdorf looks like this:

**Amtshainersdorf, D., a/d Sebnitz, im Elb-  
sandsteingeb.; Sa., KrG. Dresden, AG. Bkdo.  
Pirna, AG. P E 4 km Sebnitz Sa., StdA. Hofhainersdorf;  
274 E.; T, EPs: Schandau-Niederneukirch; Holzschelf.,  
Fbr. v. kristallisierten Blechen, Pappen. – Dazu Gut  
Kanzleilehngut, E 5, EPs 1 km; GfH. Hochbusch, E 4,  
EPs 2,5 km.**

Explanations of abbreviations:

**D**=Dorf (village), **Sa.**=Sachsen (Saxony), **KrG**=Kreishauptmannschaft (jurisdiction)  
**AG**=Amtshauptmannschaft (jurisdiction), **Bkdo**=Bezirkskreiskommando (military seat),  
**AG**=Amtsgericht (lower court) **P**=Post (post office), **StdA**=Standesamt (civil registration)  
**E**=Einwohner (population)

From this entry the researcher can glean a wealth of information, i.e., one would find that Amtshainersdorf is a village on the river Sebnitz. It is part of the cultural area known as Elbsandsteingebirge. Amtshainersdorf is located in the Kingdom of Saxony. It belongs to the Kreishauptmannschaft Dresden. The seat of the Amtshauptmannschaft and the military is in Pirna. The lower court (Amtsgericht), the post office and railroad station are 4 kilometers away in Sebnitz. The civil registration records are located in Hofhainersdorf. Amtshainersdorf has a population of 274 (in the year 1905).

As stated, the *Meyers- Orts and Verkehrslexikon* is a reference tool that yields quick search results for jurisdictions. It also provides some historical details. As was mentioned before, the gazetteer is available online through FamilySearch Wiki (click on Germany, then gazetteers).

If the family historian has need of more historical details about a certain place in the Kingdom of Saxony, August Schumann's gazetteer should be consulted, available through [www.familysearch.org](http://www.familysearch.org), catalog, International films 824319-824325 (films can be ordered through the Family History Center network). Following is an example from Schumann's book concerning Hennersdorf (Hainersdorf, Amtshainersdorf)

**Hennersdorf bei Sebnitz, ein unmittelbares Amtsdorf im Königreiche Sachsen, im Meißner Kreise, im Amte Hohenstein mit Vohmen, in dem angenehmen Thale der Sebnitz, 1/2 Stunde westlich von Sebnitz und 2 Stunden von Neustadt bei Stolpen entfernt gelegen. Es hat 27 Häuser und 185 Einwohner, unter letztern 9 Hufner, 3 Gärtner, 12 Häusler mit 9 Hufen 9 Muthen und 12 Stücken Zugvieh. Die Gemeinde hat im Sebnitzbache innerhalb ihrer Flur freie Fischelei. In diesem Dorfe befindet sich, außer dem im J. 1801 die Schriftfähigkeit erlangten Canzlellehngute, auch noch ein Lehngericht, eine Ziegelscheune und eine Mühle von zwei Gängen. Der Ort ist nach Sebnitz eingepfarrt.**

Transliteration:

Hennersdorf bei Sebnitz ein unmittelbares Amtsdorf im Königreiche Sachsen, im Meißner Kreise, im Amte Hohenstein mit Lohmen, in dem angenehmen Thale der Sebnitz, ½ Stunde westlich von Sebnitz und 2 Stunden von Neustadt bei Stolpen entfernt gelegen. Es hat 27 Häuser und 185 Einwohner, unter letztern 9 Hufner, 3 Gärtner, 12 Häusler mit 9 Hufen 9 Ruthen und 12 Stücken Zugvieh. Die Gemeinde hat im Sebnitzbache innerhalb ihrer Flur freie Fischerei. In diesem Dorfe befindet sich außer dem im J. 1801 die Schriftsässigkeit erlangten Canzleilehngute, auch noch ein Lehngericht, eine Ziegelscheune und eine Mühle von zwei Gängen. Der Ort ist nach Sebnitz eingepfarrt.

Translation:

Hennersdorf by Sebnitz a village with administrative function in the Kingdom of Saxony in the county of Meissen under the jurisdiction of Hohenstein together with Lohmen lies in the pleasant valley of the river Sebnitz, ½ hour to the west of Sebnitz and 2 hours from Neustadt by Stolpen. It consists of 27 houses and has a population of 185, among them 9 farmers, 3 Gärtner (occupant of a house with a garden plot) 12 Häusler (occupants of houses only) with 9 Hufen (farms) and 9 Ruthen (land) and 12 draft animals. The village has fishing rights in the Sebnitz. The village has besides administrative powers (since 1801 with an attached farm) a court also, as well as a brickyard and a mill. The village belongs to the parish of Sebnitz.

The information on the previously mentioned birth record indicated that the purchase of land was about to take place in Hainersdorf or Amtshainersdorf. Careful deliberation demonstrated that Hainersdorf and Amtshainersdorf are one and the same place. The birth certificate also stated that the father was soon to be the owner of a farm. "Soon to be" could be interpreted as anytime between 1841 (year of the birth of the child) or 1912 (year of the death of the father). Land purchases in Germany have to be registered with an Amtsgericht; in Saxony in previous times with a Gerichtsamt, Amt or Pflege. The *Historische Ortsverzeichnis von Sachsen* showed that Amtshainersdorf came under the jurisdiction of Amt Hohnstein in 1843 and of Gerichtsamt Sebnitz in 1856. Gerichtsamt Sebnitz was court and general administration

in one. In 1875 the general administration came under the Amtshauptmannschaft Pirna. In matters of the lower court Gerichtsamtsamt Sebnitz was in charge. In 1879 Gerichtsamtsamt Sebnitz became Amtsgericht Sebnitz which means by 1879 all land records of the administrative district of Amtshauptmannschaft Pirna were deposited in Sebnitz.

Since the land purchase took place in a previous century all such documents were archived. Any clarification of when exactly and between what parties the acquisition took place, would be a matter of research in the appropriate modern day archive. That archive would be the State Archive of Dresden.

A search among archival records can be a daunting task. How can one possibly find the correct information among thousands of documents, especially when name indexes exist only in rare cases. A researcher needs to have a general knowledge of how to navigate around an archive. Archival staff will assist the visitor in retrieving materials from storage. However, members of the staff in an archive expect a high degree of preparation from their patrons. In order to avoid frustration, misunderstanding and delays in retrieving records, one must have done the “homework”, and approach the archive with requests that are well-founded and as specific as possible.

A good idea for the researcher is to announce his visit to the archive and give beforehand his request for documents and a place in the reading room. Archives have forms online which will ask specific questions, which have to be filled in and send before an actual visit. In filling out such a request it is important to select a fairly narrow time frame, and the exact area to which the research pertains. Archives may also want to know general information, such as previously

consulted sources, and if other archives have already been contacted in the research process. All these steps are important to staff, so that they can maximize everyone's chances of success in the shortest amount of time.

When archival records are to be preordered it is very important to know the "Signatur" (call number of the item in question. Only with this information is an efficient and precise retrieval possible. Examples of a signature could look like the following:

I. HA Rep/ 77, Tit. 258. Nr. 1 Bd. 1

Or

II. HA, Abt. 13 Neumark, Edikte und Patente, Nr. 12

As explained, a „Signatur“ classifies a record or an item within a more general record. The second of the above examples shows that patent number 12 is the object of the search. It would be found in the area of Neumark under the department (Abt. = Abteilung) number 13 of the main archive (Hauptarchiv or HA), in the second section of that archive.

Archival records are stored as they were originally created, in the context of their formation. This is known as the "Provenienzprinzip", or organization by place of origin and method of creation. Most archives adopted this classification principle in the 19/20<sup>th</sup> century. Earlier archival records were stored according to the "Pertinenzprinzip", meaning that the records were organized by "Begriff" (general concept). Different than archives, most lending libraries and other libraries today are built upon the method of "Pertinenz". Materials are organized

according to subjects, territories or persons. In sum: **Archival records are organized the way they were originally created and gathered.**

In order to find a Signatur, first the “Beständeverzeichnis” (general catalog) of an archive has to be consulted. This index gives an overview of all records kept in the archive. Here the researcher will find helpful and necessary hints about historical or other facts regarding the contributors of archival records.

Since the court records of Sebnitz deposited in the State Archive Dresden are of interest in this case, the catalog of this archive needs to be perused. Such preliminary research can be done online. The website <http://www.archiv.sachsen.de/> has a quick search feature “Schnell zum Ziel”. The first item “Suche in Archivbeständen” and then “Beständeübersicht des Hauptstaatsarchivs Dresden” brings up choices of timeframes. The second item “ Königreich und Freistaat Sachsen 1831-1945” covers broadly the historical context with which the Sebnitz research is concerned. Choosing this timeframe then asks for administrative offices. The choice would be “2.3 Fachbehörden und nachgeordnete Einrichtungen” (administrations) since the search concerns Amtsgericht Sebnitz, a court. The click on this category brings about another choice: what kind of administration? The answer would be Justiz (translated = justice). Since Justiz is a general term, the search needs to be more specific. The search is for an Amtsgericht. A click on “Gerichte” (courts) would be the appropriate choice. There are various types of courts. The search concerns an Amtsgericht, therefore, the choice “2.3.4.2.7 Amtsgerichte” would be correct. Scanning the list of lower courts shows Amtsgericht Sebnitz with the Signatur 11098 and records from 1856 – 1970. A click on “Amtsgericht Sebnitz” gives



yet another choice, namely what type of records from the court are available. There is also some explanation to a “Findbuch” (a description of the inventory).

Another question arises. Where would be the records of Amtsgericht Sebnitz before 1856? The intended purchase in Amtshainersdorf could have taken place before this time. Going back in the archive catalog and the frame “Königreich und Freistaat Sachsen” shows another category, namely “1. Markgrafschaft Meißen, Albertinisches Herzogtum und Kurfürstentum/Königreich Sachsen bis 1831”. These older political jurisdictions, formed before 1831 became part of a huge overhaul within the Saxon archive management and were grouped together. Clicking on the hyperlink and then choosing “1.5 Behörden und Einrichtungen der Erblände” (administrations) results in category 1.5.2 “Ältere Kreis- und Amtshauptmannschaften, Ämter” (older administrations). A click on this item produces the Signatur 10055 of “Amt Hohnstein mit Lohmen” with records ranging from 1606-1856.

If the researcher were to go to Dresden, he would send something like the following form to the archive:

## **Antrag auf Benutzungsgenehmigung**

Name, Vorname des Antragstellers (Privatperson, juristische **freiwillige Angaben:**

Person, Behörde usw.) Beruf/z. Zt. ausgeübte Tätigkeit

Postleitzahl, Wohnort, Straße, Hausnummer Telefon

Name, Vorname des Vertreters im Falle der Vertretung oder Name,  
Vorname von Personen, die den Antragsteller bei der Benutzung  
Unterstützen

e-Mail

Benutzungsvorhaben (Thema der Arbeit mit zeitlicher Eingrenzung, z. B. 1650 – 1800)

**(Here the researcher would fill in his research project, i.e., records of Amtsgericht Sebnitz, Signatur 11098 (1856-1970) and records of Amt Hohnstein mit Lohmen, Signatur 10055 (1606-1856))**

1. Ich beantrage die Genehmigung zur Einsicht in die für die Bearbeitung des vorstehend bezeichneten Benutzungsvorhabens

erforderlichen Findmittel, Hilfsmittel und Archivalien.

2. Ich habe Kenntnis vom Sächsischen Archivgesetz vom 17. Mai 1993, der Sächsischen Archivgebührenverordnung

vom 23. Mai 2006 und der Sächsischen Archivbenutzungsverordnung vom 24. Februar 2003.

3. Ich verpflichte mich, bei der Verwertung der aus den Archivalien gewonnenen Kenntnisse Urheber- und Persönlichkeitsrechte

sowie den Schutz berechtigter Interessen Dritter zu wahren.

4. Bei der Benutzung von verfilmtem Archivgut gilt die Benutzungsgenehmigung nur für die beantragten, nicht aber für sonstige auf dem Mikrofilm vorhandene Archivalien.

5. Die Bestimmungen über die Ablieferung eines Belegexemplars nach § 9 Abs. 3 des Sächsischen Archivgesetzes sind mir bekannt. Voraussichtlicher Termin der Fertigstellung des Werkes: .....

6. Mit der Weitergabe meines Namens und meiner Anschrift an andere Benutzer mit ähnlichem Benutzungsvorhaben

bin ich einverstanden ☐ ja ☐ nein

Ort, Datum Unterschrift des Antragstellers

#### **Vom Archiv auszufüllen**

☐ Antragsgemäß genehmigt.

☐ Genehmigt. Die Genehmigung wird mit folgenden Nebenbestimmungen versehen (siehe Anlage).

☐ Benutzungsgebühr nach Nr. 1 der Anlage zur SächsArchivGebVO (Gebührenverzeichnis)

☐ Mündliche/schriftliche Auskunft ☐ Ermittlung von Archivgut

Datum, Unterschrift des Bearbeiters

After filling in his personal data and agreeing to the conditions set by the archive for using their materials, the archive has to approve the request and a date for doing the actual research is agreed upon. Carrying out this particular research into the court records of Sebnitz and Hohnstein and for that matter for all of Saxony may be less elaborate, and more user friendly through records produced on film. The Genealogical Society of Utah was able to film the court records of Saxony in the 1990s. These films are made accessible worldwide through

[www.familysearch](http://www.familysearch) and its network of Family History Centers. In other words, the research into Saxony's court records could be conducted right in the researcher's own neighborhood. The researcher will have to become familiar with the single most important research tool, namely the catalog of FamilySearch. The home page of [www.familysearch](http://www.familysearch) will give the user various options: *get the address for a Family History Center, use the catalog, get research guidance/help, etc.*

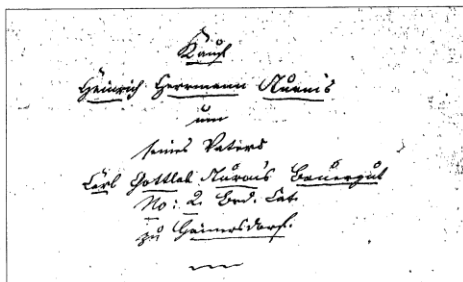
A click on "Search Records" allows a click on "Library Catalog" the patron then receives access to the main collection. The catalog is the equivalent of the Beständeverzeichnis of an archive in Germany. The content of the catalog is organized by principle of "Pertinenz", namely by subject, territories or persons. The search options of the catalog are organized by "place", "surname" or "keyword", among others. If materials on film or fiche need to be perused one can order them by contacting a Family History Center. Simply by requesting film/or fiche numbers, the material will arrive in the center at a later date. It can then be researched in the center for a small fee and be kept there for a certain amount of time.

In accordance with the aim of this text, which is, to introduce the researcher to the court records of Saxony, it will be useful now to pursue the leads given in the birth record. The subject is court records, the place to look for them is Sebnitz. Entering "Sebnitz" in search function, Place Search, retrieves the following information from the catalog: "Gerichtsbücher (court records), 1550-1859, Sebnitz (Sachsen), Amtsgericht – Main Author". Clicking furthermore on "View film notes" refers to the "Findbuch" (inventory) for Sebnitz on International Film number 1889315, item 10.

Item 10 on this film shows the title page for the court records of Sebnitz, followed by several pages of listings for villages/towns within the jurisdiction of the court's jurisdictions, such as Hertigswalde, Hinterhermsdorf, and so forth (see the following image).

<div> <div>GERICHTSBÜCHER</div> <div>SEBNITZ</div> </div>			
Lfd. Nr.	Alte Sign.	Aufschrift	Jahr
<div> <div>Hainersdorf, Hennersdorf o. Hofhainersdorf</div> <div>Amtsamt von Hohnstein</div> </div>			
1	3	Kauf- und Handelsbuch	1781 - 1793 (1822)
2	4	" " "	1794 - 1806 (1839)
3	5	" " "	1806 - 1827 (1843)
4	6	" " "	1828 - 1851
5	1	(Kanzlei- und Consensbuch Erblehngut)	1781 - 1810
6	2	" "	1810 - 1844
7	7	Amtshandels- u. Kaufbuch	1807 - 1856
8	8	Hypothekenbuch	1809 flg.
-		Gerichtsprotokolle	1827 - 1849 siehe Amtsgericht Sebnitz Nr. 7-10.
Weiteres siehe auch Gerichts- bücher des Amtsgerichts Schandau unter "Amt Hohnstein"			

The court proceedings for each place listed have been assigned a number and a time period. This numbering system corresponds with a column of numbers in the previously mentioned catalog. If one were to select item running number 4 (old Signatur number 6) of the above shown image "Kauf- und Handelsbuch Hainersdorf 1828-1851, the corresponding number in the catalog would be number 3-6 and the record can be found on International film 2066578. On this film the actual proceedings regarding properties and financial arrangements in Hainersdorf between 1828 and 1851 are found. On film 2066579 (covering the time period 1807-1856) a name index was provided giving a page number. The name of the father on the birth certificate, Heinrich Hermann Sturm, was to be found on page 324. On this page a lengthy document was recorded, which divulged names, relationships, ages and other relevant and interesting information.



**Translation:**

*Purchase*

Heinrich Hermann Sturm  
his father's  
Carl Gottlob Sturm's farm  
No 2 land register  
at Hainersdorf

This record shows the two parties, Heinrich Hermann Sturm and Carl Gottlob Sturm (father and son). The exact location was given as between Johann Ehrenstein Klahn's Neunruthengut (farm) and the Erblehngericht (court).

*Es verkauft der hiesige Gutbesitzer  
Carl Gottlob Sturm  
sein besitzendes von seinem Vorgesetzten  
Carl Gottlob Meintzschel laut dem Contract  
vom 16<sup>ten</sup> April 1826, nämlich an sich  
gekauft als die No: 2. gewöhnliche  
Erbschaftssteuer und seine Erbschaft  
Klause Meintzschel's in demselben*

**Translation:**

*The local farmer*

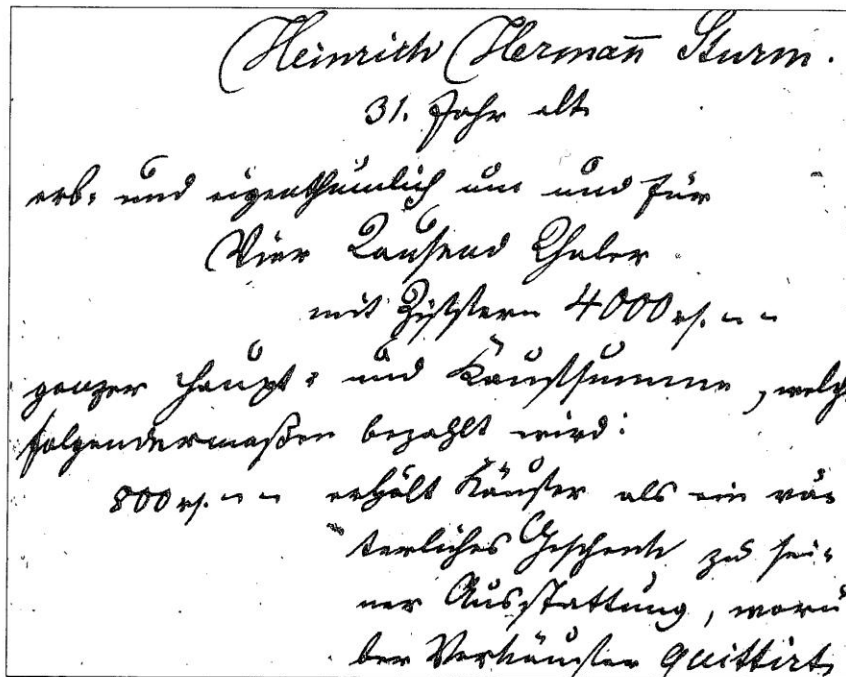
*Carl Gottlob Sturm*

*sells his farm which he obtained from his father in law  
Carl Gottlob Meintzschel according to contract on April  
16, 1826, located between the court and Johann Ehrenstein  
Klahre's farm consisting ...*

Besides the name of father and son, there appears a third name, Carl Gottlob Meintzschel, who was the father-in-law to Carl Gottlob Sturm. The same parcel of land was previously sold to Carl Gottlob Sturm April 16<sup>th</sup>, 1826.

Continuing with the record, obligations such as taxes, tributes to the church, statute labor etc. which encumbered the farm were listed. There was the amount the farm was to be sold for. The sum was broken down into increments of what was to be mortgaged, how much the

father gave as a gift to the son and finally, how much was to be paid every year at Michaelis and Walpuris (feast days).



Heinrich Hermann Sturm.  
31. Jahr alt  
Ich, und signifizierend uns und für  
Herr Landrat Guler  
mit Ziffern 4000 fl. in  
ganzem Jahr, und Zinssummen, welche  
folgendermaßen bezahlt wird:  
800 fl. in 800 fl. erhält Käufer als ein Jahr  
Kaufpreis Zinssumme zu 100 fl.  
im Jahr, Zahlung, monat  
bei Michaelis und Quittung

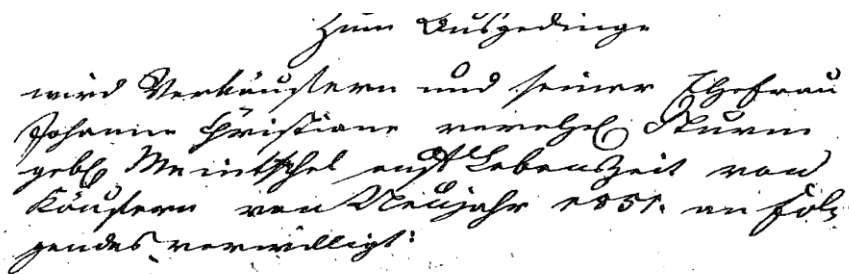
**Translation:**

Heinrich Hermann Sturm, 31 years old agrees to the sum of 4000 Thaler to be paid as follows:

800 Thaler buyer receives as a fatherly gift, for which  
the seller writes a receipt...

Sales contracts such as these do not just ensure that land parcels remain as they are, but are also the traditional way of securing the pension and welfare of the retiring farmer and his wife, whose name might be mentioned. The buyer is usually a son, who will run the farm and take care of his parents according to contractual specifications. How the retiring farmer and his wife

are to be treated goes on over pages, and allows us to catch glimpses into the circumstances in which people lived. We learn about livestock, what people grew in a particular area, what they consumed and how they wanted to be looked after in their old age. Every aspect of daily life seems to be covered, such as the requirements for living space, the use of vegetable gardens and the condition and quality of food to be provided. In this particular case study the seller insisted on receiving two cans of good milk per day, good grains, sufficient firewood, etc. In case of illness he expected care without compensation. In the case of death, the surviving spouse was to be treated exactly as spelled out in the contract.



zuin Verleibung  
sein Markungsmann und seiner Ehefrau  
Johanne Christiane mangellos  
gute Meintzel auf Lebenszeit nach  
Einkommen von Stützjahr 1851 an fol-  
gende mangellos:

**Translation:**

As to the reserved property:

The following will be granted to the seller and his wife Johanne  
Christiane married name Sturm, maiden name Meintzschel for as  
long as they live beginning at New Years 1851

After all points were discussed and both parties agreed to the terms of the contract, the document was signed by the local judge. Witnesses and the contractual parties also signed, and then the document was sent on to the lower court. The two parties had to appear again to sign. The document was then filed with the land registry.



Thanks to such tedious care the court took with its documentation, the sales contract contained both valuable and reliable data for family research. The question the birth certificate from 1841 posed was answered through court records. The second male on the birth certificate turned out to be the grandfather. Additionally, more family names were revealed, a father-in-law and his daughter.

### **The rural population's status, rights and obligation**

As it was mentioned before, in order to find the correct records in an archive one has to be familiar with the local history, developments and customs. The structure of a farming community can be very complex and some general information may be helpful.

The study of the farming community reveals an array of labels attached to surnames. We see that men are "Nachbarn", "Pferdner", "Gärtner", "Hintersassen", "Gerichtsschöppen" etc. Often ancestors are referred to by epithets rather than their proper names. One will find, for example, that the "alte Richter" was buried. If a farmer owned several properties, he may have been referred to as "doppelter Nachbar" (double neighbor) in a record.

To be somebody within the rural community one had to be at least a "Nachbar". To have this title meant equal standing, a certain amount of land, horses, cattle and rights of explication. A newcomer to a community had to buy his standing as Nachbar by either giving money or beer. Candidates had to adhere to the village order to gain the rights the others enjoyed. Members of a village not "buying" into the community had to accept another status.

As part of the community, a Nachbar was often called to positions that regulated the affairs of daily life. What is today known as the "Bürgermeister" (mayor) of a village was formerly known as the „Gemeindevorstand“, the „Schulze“ and before that the „Richter“. These terms all designate an office with a certain set of duties. The Richter was the village chief, who performed the duties of overseer and mediator between subjects and the manor lords. It sometimes happened that several manor lords laid claims on the same village. However, villagers only reported to one lord. "Richter", in today's sense means judge, however, in previous times the Richter did not play a legal role as we know it today, but he rather was in charge of the statute labor and had to oversee that everyone adhered to constitutional law and order, more what the police force would do today.

A Richter was appointed by the local authority (manor lord). His position afforded him the property or tenure of the "Lehngericht" (court). This was a building intended for village gatherings and was often an inn, as well. For a fee, the Lehngericht could become a "Erblehngericht", meaning the building was inheritable, but only to males, including sons-in-law.

Alongside the Richter, two or more assistants served the community. They were known as "Schöffen" or „Schöppen“. They were representatives of the villagers, were called by manor lords for life and helped „finding the law“. They were installed into office by an oath just like the Richter. Other duties the assistants performed were to collect taxes and attend executions. The highest official rank a farmer could have bestowed upon him was the office of "Landrichter". The holder of this office had to be present at the yearly "Landgericht"

(gathering) as well as at Beurkundungen (official signings). He had to attend building inspections and co-sign important contracts within the jurisdiction of the Amt. With such extra duties, the farmer enjoyed a measure of esteem. He was referred to as “Ehrn” or “Herr”. Besides serving the community, the farmer could also serve the church as “Kirchenvorsteher” (church official). His duties would include overseeing matters pertaining to buildings and constructions.

A person with little land or none at all was not regarded as a Nachbar. Usually, craftsmen or day laborers fit into this category.

With all these activities in his life, it is understandable why some records refer to a farmer by his status only, without any clarifying details, and why it becomes crucial in some cases to refer to several documents in order to establish an ancestor’s identity. The following example illustrates the point:

In 1621 a Jacob Weber from Flemmingen appeared on a farm in Langenleuba. Shortly thereafter, the church book of Langenleuba records the births of children whose father is shoemaker Jacob Weber. At that time the name Jacob Weber was very popular and can be found several times over in the same church book. The question arises: Can the children of shoemaker Weber be accounted to Jacob Weber, the Pferdner? Are the shoemaker and the Pferdner two different people or one and the same person?

Now and then the officials themselves were not clear on what to call someone. Was the man a “Hüfner”, “Ackermann”, a “Vollspänner”, a “Spitzspänner” or a “Kossäte”. These

designations have to do with people's possession of land and their subordination to higher authorities (the law).

The word "Bauer" (farmer) as we know it today, did not exist during Germany's feudal period. Rather, people were recognized by their rights and known either as "Grundherren" or "Lehnsleute", meaning secular or ecclesiastical lords or as "Unfreie", "Leibeigene" or "Hörige" (subjugated population).

Being free or not during medieval times had to do with a status that qualified one for certain additional rights under the law. On that basis, the law decided on one's ability to own land to bequeath it. The law determined the degree of personal freedom and self-determination (such as being allowed to move away, for instance). On top, the law regulated personal possessions, inheritances as well as the amount of taxes and tributes. The "Grund- und Lehnsherren" (manor lords) executed the law with the help of appointees as was discussed earlier. The basis for their power was founded in the "Landes- und Lehnrecht" (land and feudal laws) as described in the "Sachsenspiegel", for instance. These laws determined who was "lehnsfähig" (had the right to become a property owner). Qualifying people had to be of impeccable character and repute and had to be able to provide military aid. Women, generally, were excluded and so were farmers. "Unfreie" had little or no legal rights, meaning they could not buy or sell land at will.

Since the middle of the 16<sup>th</sup> century the vassals tried to expand their possessions at the cost of the Unfreien. The "Grundbesitzer", "Großgrundbesitzer" and the "Junker" (all land owners) already possessed properties of large proportions. Some seized the opportunity to trade their

surplus in foreign countries and thereby became very wealthy, not entirely without the labor of their serfs. They, the serfs, were so tightly controlled and regulated that for centuries nothing in their daily life changed. Besides working hard, paying taxes and tributes, the serfs could be sold, exchanged or be given away as a present. They needed permission for the right to fish or hunt, collect wood, and so on. They were fined if they did not adhere to tight specifications, for example the building and firing of a stove. The executive powers of the manor lord allowed him to control sales of land, mortgages, inheritances, adoptions, prenuptials, waivers, approvals, warrants and matters of a security police type force. All form the basis for “niedere” or “Patrimonialgerichtsbarkeit” (lower court). For their adherence, the serfs could expect protection and care in case of misfortune, sickness and old age.

The attempts to regulate everything gave way to complex administrative issues. Ordinary men were also known as Kötner, Köther, Sitzter, Höfner, Hufner, Häusler, Bauer, Colonis, Häusling, Hintersass, Büdner, Kotsass to name only a few. These and other such descriptions classify a person who was working a piece of land. The size of the land was of foremost importance, for the farmer’s standing in the community and his rights and obligations depended on it. Volkmar Weiss in his book Bevölkerung and Mobilität, Sachsen 1550-1880 (page 78) mentions the complex hierarchy of titles and their meanings. He attempts to categorize the population who worked the land into two groups:

A. **Spannbauern** (other names: Nachbar, Ackerleute, Anspanner, Pferdner) are

1. Vollbauern, Vollspanner, Hufner

2. Halbbauern, Halbspänner, Halbhäfner

3. Viertelbauern, Einspänner, Spitzspänner, Kärrner

These are people cultivating land ranging in size between 20 and 70 Hektar (49 to 173 acres). Because they managed more land, they had more obligations toward their masters. Two to four, sometimes up to six days of statute labor were the norm. They could cultivate their own land only if they were able to hire the necessary help. The seemingly high acreage generally did not yield much surplus because of the high cost of operation.

B. **Handbauern** (other names: Rechtlose, Hintersättler, Hintersiedler, Köthner, Kossäte, Gärtner)

These persons provided labor for the manor lord without horses or oxens, in other words usually through manual labor.

The word “Gärtner” derives from a certain set of laws, the “Gartenrecht”. Under Gartenrecht fell small pieces of land which were apparently exempt from all obligations to the feudal system. These small plots could be used however a person living on it saw fit, usually as a garden plot. One could not obtain communal rights living on such plots, however. Living on and working such small pieces of land in time became the base for the population regarded as “landarm” or “landlos” (with little or no land, and thus with no rights as the Spannbauer or Pferdner enjoyed). By planting a garden, the Gärtner could take care of some of the needs of his family. He had to supplement his income by being a day laborer/craftsman.

A “Häusler” found himself in a similar situation. He occupied only a small house without any property attached. Both the Gärtner and the Häusler were not entitled members of the community, and therefore had no access to protection or rights to “Dorfflur” and “Gemeindehutung” (obtaining wood, fishing or grazing rights). Since they did not accept land from manor lords directly, they could not be drawn into compulsory service. However, the executive powers of the manor lords also included those who were supposedly not under their economic jurisdiction. In most situations Häusler and Gärtner were obligated to give produce, taxes and service.

Although most people did not “own” the land and houses they occupied, they were able to pass it along to their posterity, in a way it was demonstrated through the Kauf- und Handelsvertrag from Sebnitz. People’s personal belongings were inheritable and were also recorded in court records. To understand more fully what these court records tell us, a few details about the law of succession need to be explained.

The law of succession derives from “Gerade” and “Heergeräte”. The term “Heergeräte” describes a man’s possessions, such as his horse (usually a stallion, not a mare) his daily clothing, a pillow, sheets, a bowl, a towel, etc. When a man left such items behind at death, they could be inherited. Men such as teachers, sextons and clergymen did not usually leave Heergeräte, and they would not inherit such. The inheritance of a Heergerät was subject to local statutes, the customs of the area or local practice and was accordingly interpreted. What some interpreted as part of the Heergerät, like a wagon, a harrow or a plough (because such tools were part of a man’s commodities) others saw as part of a general inheritance. The

settlements of inheritances varied from area to area and the distribution among heirs was not always straight forward. Also, the "Gerade" (inheritance of a woman) was a multilayered endeavor when it came to passing on possessions. If a woman died, the household of the remaining spouse was heavily encumbered, when he had to part with the deceased's property. To eliminate great restraints in such cases, the Gerade became classified, i.e., Witwengerade, halbe Gerade and Nifftelgerade were some of the designations. Another way to deal with a woman's inheritable goods was to sell or give them away during her lifetime.

Saxon law views Gerade as a list of goods and chattels that a woman either brought into or used throughout the marriage. Gerade then, consists of dresses, beds, flax, linen, spoons, plates, chests and boxes, claves, pigs, chickens, ducks, geese, sheep and bees (all mainly animals of female gender, and of male gender only if they were suckling or still young). Each action concerning Gerade was governed by formalities, which were documented by the authorities. A woman could sell her Gerade to her son and receive money for it. However she decided to disperse of her property, she then would hand over the keys for everything as a formal gesture. She would, however, receive the key back to signify right of usage. In other words, although the mother had technically given away her possessions, she could still use items from her Gerade and her son had no right to dispute the action. At the mother's death the son would then take over her Gerade "as is". Following is an example of the selling of a Gerade: